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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/076,517	05/12/1998	DAOZHENG LU	28049/34394	4933

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EXAMINER

GRANT, CHRISTOPHER C

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 03/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/076,517</b>	Applicant(s) <b>Lu et al.</b>
Examiner <b>Christopher Grant</b>	Art Unit <b>2611</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Jun 25, 2001

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 70-77 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 70-77 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892) 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2-5,7,10 20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 70-75 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification fails to support “*An audience rating system for digital television and radio*” now recited in claim 70 (line 1), or “*A system for recording reception of pay programs on digital television and radio*” now recited in claim 72 (line 1) or “*An apparatus for audience rating of digital television and radio*” now recited in claim 74 (line 1).

The specification fails to support the step of “*extracting at least one identification code for at least one digital stream of a first channel, from a control stream of a multiplexed digital transmission*” now recited in claim 70 (lines 4 and 9), claim 72 (lines 4 and 9) and claim 74 (lines 4 and 9).

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The specification fails to support the steps of “*when reception of the first channel by a receiver begins*” and “*when reception of the subsequent channel by the receiver begins*” now recited in claim 70 (lines 4-5 and 10), claim 72 (lines 4-5 and 10) and claim 74 (lines 4-5 and 10).

The specification fails to support the step of “*recording the time that reception by the receiver is ended*” now recited in claims 71, 73 and 75.

The above limitations are considered as new matter and they must be canceled from the claims.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 76-77 are rejected under 35 U.S.C. 102(e) as being anticipated by Aras et al. (Aras) (provided by applicant in the IDS filed 1/8/2000).

Considering claim 76, Aras discloses an audience measurement method for digital programming comprising the steps of:

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- a) extracting at least one identification code (e.g. a first AVI, 343-567-231 - figure 12) from at least one digital multiplexed stream (col. 6, line 45 - col. 7, line 5) of a first program when reception of the first program begins (see the entire reference including but not limited to col. 7, line 30 - col. 8, line 37, col. 13, lines 53-58, col. 20, lines 15-33 and col. 24, line 61 - col. 25, line 21);
- b) recording the at least one identification code and the time that reception of the first program begins (col. 8, line 52-col. 9, line 16, col. 14, lines 8-24 and col. col. 20, lines 15-40);
- c) extracting at least one identification code (e.g. a subsequent AVI, 565-778-543 - figure 12) from at least one digital multiplexed stream (col. 6, line 45 - col. 7, line 5) of any subsequent program when reception of the subsequent program begins (see the entire reference including but not limited to col. 7, line 30 - col. 8, line 37, col. 13, lines 53-58, col. 20, lines 15-33 and col. 24, line 61 - col. 25, line 21); and
- d) recording the at least one identification code and the time that reception of the subsequent program begins (col. 8, line 52-col. 9, line 16, col. 14, lines 8-24 and col. 20, lines 15-40).

Considering claim 77, Aras discloses a method of determining audience ratings in connection with digital programming comprising the following steps of:

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- a) reading a first identification datum (e.g. a first AVI, 343-567-231 - figure 12) from a multiplexed digital stream (col. 6, line 45 - col. 7, line 5) corresponding to a first program tuned by a digital tuner (1558, figure 15) (see the entire reference including but not limited to col. 7, line 30 - col. 8, line 37, col. 13, lines 53-58, col. 20, lines 15-33 and col. 24, line 44 - col. 25, line 21);
- b) time stamping the first identification datum (col. 8, line 52-col. 9, line 16, col. 14, lines 8-24 and col. 20, lines 15-40);
- c) subsequently reading a second identification datum (e.g. a first AVI, 565-778-543 - figure 12) from a multiplexed digital stream (col. 6, line 45 - col. 7, line 5) corresponding to a second program tuned by a digital tuner (1558, figure 15) (see the entire reference including but not limited to col. 7, line 30 - col. 8, line 37, col. 13, lines 53-58, col. 20, lines 15-33 and col. 24, line 44 - col. 25, line 21); and
- d) time stamping the second datum (col. 8, line 52-col. 9, line 16, col. 14, lines 8-24 and col. 20, lines 15-40).

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*Note to Applicant*

4. Applicant's request for interference with a patent under 37 CFR 1.607 is noted. However, an interference can not be declared at this time because the claims in the instant application are rejected under 35 USC 102 and 35 USC 112 first paragraph as described above.

5. Some of the references listed in the petition to make special under 37 CFR 1.102 (filed 6/22/2001) were not provided by applicant. Applicant should provide the references and a form 1449 for consideration by the examiner.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ivanyi discloses audience measurement system.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

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(703) 872-9314 (for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Grant whose telephone number is (703) 305-4755. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (703) 306 0377.

*Christopher Grant*  
Christopher Grant  
Primary Examiner  
March 4, 2002